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DEPARTMENT OF CONSUMER AFFAIRS  
CITY OF NEW YORK

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DEPARTMENT OF CONSUMER AFFAIRS,  
  
Petitioner,  
  
-against-  
  
NORMAN & ASSOCIATES,  
  
Respondent.  
-----X

CONSENT ORDER

No.: PL 5349596

1. NORMAN & ASSOCIATES (“Respondent”) enters into this Consent Order with the Department of Consumer Affairs (“the Department”) to settle the above-captioned matter.
2. On June 9, 2015, the Department issued a subpoena *duces tecum* to Respondent in the matter of an investigation into possible violations of New York City Administrative Code (the “Code”) Sections 20-101 et seq. (the “Licensing Law”), 20-488 et seq. (the “Debt Collection Agencies Law”), 20-700 et seq. (the “Consumer Protection Law”), and/or the Rules of the City of New York (the “Rules”) Title 6, Section 5-76 et seq. (the “Debt Collection Rules”).
3. The Department finds that the Respondent was engaged in unlicensed debt collection activity in violation of the Licensing Law and Debt Collection Agencies Law, and in deceptive practices in violation of the Debt Collection Rules. The Respondent admits that it did not have a license to engage in debt collection activity in New York City. The Respondent agrees to this Consent Order with the Department to avoid further investigation and litigation.
4. Van Emberger, as President/CEO, represents and warrants that he is authorized to enter into this Consent Order on behalf of Respondent.
5. This Consent Order shall apply to Respondent, its directors, officers, employees, representative agents, assignees, and successors, and any entities owned or controlled by Van Emberger. For the purpose of this Consent Order, “employee” means any person employed for hire or permitted to work by Respondent including, but not limited to, any person who manages or oversees the work of another and any person whose earnings are based in whole or in part on commission for work performed for Respondent.

6. If Respondent obtains a license from the Department, Respondent shall comply fully with all relevant laws and rules related to debt collection from New York City consumers including, but not limited to: (a) the Licensing Law and Rules, Admin. Code Section 20-101 *et seq.* and Title 6 of the Rules of the City of New York, Sections 1-01 *et seq.*; (b) the Debt Collection Agencies Law and Rules, Admin. Code Sections 20-488 *et seq.* and 6 R.C.N.Y. Sections 2-190 *et seq.*; (c) the Consumer Protection Law and Rules, Admin. Code Sections 20-700 *et seq.* and 6 R.C.N.Y. sections 5-76 *et seq.*; and (d) Title 23 of the NYS Financial Services Law Section 23 NYCRR1.

### **INJUNCTIVE RELIEF**

#### **Licensing**

7. Respondents shall not act as a debt collection agency as defined in Section 20-489 of the Code at any time without holding a valid license from the Department.
8. If Respondent is found to be engaging in debt collection activity without the required license(s) at any time after the execution of this Consent Order, for the purpose of imposing fines, there shall be a presumption of continuous unlicensed activity commencing on the date of execution of this Consent Order.
9. Respondent further agrees that any future violations of the Consumer Protection Law and Rules shall be treated by the Department as knowing violations.

#### **Collection Practices**

10. In addition to complying with the requirements in Administrative Code Section 20-493.2 and 6 R.C.N.Y. Sections 2-190 and 5-77(f), Respondent shall, if it obtains a license from the Department, engage in the following practices:
  - a. Whenever a New York City consumer questions, disputes, or challenges the information on which Respondent is relying to collect or attempt to collect a debt, Respondent shall either:
    - i. Close the account, permanently terminate collection efforts with respect to the specific debt, and request deletion of that item of information from the consumer's credit reporting file; or
    - ii. Report that item of information as disputed to any consumer reporting agency to which the information was previously reported and conduct a reasonable and truthful investigation into the accuracy or completeness of such information. If Respondent does not complete its reasonable investigation within thirty (30) days from receipt of the dispute, Respondent shall request deletion of that item from the consumer's credit reporting file and cease collection activities until the reasonable investigation is complete. If after the investigation the Respondent cannot

substantiate that the consumer owes the debt, Respondent shall not sell the debt or provide it to any other entity for the purpose of collection.

- b. With regard to any New York City consumer's debt which has been paid in full or settled pursuant to an oral or written agreement, Respondent shall close the account, permanently terminate collection efforts with respect to the specific debt, and submit to any consumer reporting agency to which Respondent furnishes information a request for deletion of any negative information from the consumer's credit report.
11. Respondent shall not purchase, collect, or attempt to collect debts from New York City consumers if those debts arise from usurious loans, including but not limited to payday loans. For the purposes of this agreement, "usurious loan" means a loan with an initial principal of less than \$250,000, for which the annual percentage rate of interest exceeds the rate specified by Section 14-a of the New York Banking Law. Respondent shall implement policies and procedures to comply with the terms of this paragraph that include, but are not limited to, a screening process for debts which are likely to be usurious payday loans, such as those for which the original creditor's name contains the terms "Payday," "Cash," "Check," "Instant," "Advance," "Fast," "Now," or "Quick."
  12. With regard to any New York City consumer's debt that arises from a usurious loan, Respondent shall close the account, permanently terminate collection efforts with respect to the specific debt, and submit to any consumer reporting agency to which Respondent furnishes information a request for deletion of any negative information from the consumer's credit report.

#### **Consumer Complaint Resolution**

13. Respondent shall make all possible efforts in good faith to resolve all consumer complaints filed with the Department within twenty (20) days of receipt of copies of those complaints, but in all instances, Respondents shall respond in writing to the Department regarding those consumer complaints within twenty (20) days of receipt of any complaints.

#### **NON-COMPLIANCE WITH THIS CONSENT ORDER**

14. A finding, after notice and hearing, that Respondent has committed a breach of the terms of this Consent Order shall constitute prima facie evidence of Respondent's lack of fitness to hold a license from the Department.
15. Upon a finding, after notice and hearing, that Respondent has committed violations of Section 20-490 of the Code, Respondent agrees that there shall be a presumption that Respondent engaged in continuous unlicensed activity from the day of execution of this Consent Order. Upon a finding, after notice and hearing, that Respondent has committed violations of this Consent Order, the Licensing Law, the Debt Collection Agency Law, or the Consumer Protection Law,

Respondent shall be subject to an additional penalty of one thousand dollars (\$1,000.00) for breach of the Consent Order as well as the Department's costs for investigation and litigation.

**PENALTIES AND OTHER TERMS AND CONDITIONS**

16. Respondent shall pay a total of \$5,000.00 to the Department upon execution of this Consent Order, due as follows:

Ten equal payments of \$500.00 per month, due by the 1<sup>st</sup> day of each month, beginning on November 1, 2015 and ending on August 1, 2016, in accordance with the below schedule. Failure to comply with the terms of this payment plan shall render the full amount due immediately.

<u>Payment Due Date</u>	<u>Amount Due</u>
November 1, 2015	\$500.00
December 1, 2015	\$500.00
January 1, 2016	\$500.00
February 1, 2016	\$500.00
March 1, 2016	\$500.00
April 1, 2016	\$500.00
May 1, 2016	\$500.00
June 1, 2016	\$500.00
July 1, 2016	\$500.00
August 1, 2016	\$500.00

Payment shall be made by bank check, certified check, or money order made payable to the New York City Department of Consumer Affairs, and delivered to the New York City Department of Consumer Affairs, Legal Division, 42 Broadway, 9th Floor, New York, New York 10004.

17. The \$5,000.00 settlement amount referred to above in paragraph 16 shall be distributed by the Department as follows:
- a. Respondent shall pay \$2,500.00 to the Department to establish a Consumer Restitution Fund (the "Trust Fund"). The Trust Fund shall remain open for one year from the date it is fully funded or until the Trust Fund is fully depleted. At the end of this period, any funds remaining in the Trust Fund shall revert to the Department as fines to the Department.
  - b. Respondent shall pay \$2,500.00 to the Department as fines for unlicensed debt collection activity.

18. This Consent Order shall constitute the final disposition of the above-captioned matter only if this Consent Order is fully executed and the payment amounts are received by the Department as per the terms stated above in paragraph 16.
19. This Consent Order shall constitute a final order pursuant to Section 6-42(c) of the Rules.

#### **WAIVER OF APPEALS**

20. Respondent hereby agrees to waive any further right to a hearing and appeal on any of the matters referred to herein under Sections 20-104 and 20-105 of the Code or under Article 78 of the New York State Civil Practice Law and Rules.

#### **DEPARTMENT'S AUTHORITY**

21. The acceptance of this Consent Order by the Department shall not be deemed approval by the Department of any of Respondent's business practices, and Respondent shall make no representation to the contrary.

#### **MISCELLANEOUS**

22. Respondent affirms that its current address is [REDACTED] that its current telephone number is [REDACTED] and that its current email address is [REDACTED]. It shall be Respondent's responsibility to inform the Department of any change in address as the mailing of notice to Respondent shall be deemed sufficient notice of default, regardless of whether or not Respondent actually receives the notice.
23. This Consent Order contains the entire agreement of the parties with respect to the subject matter of the Consent Order. This Consent Order supersedes any prior agreements, understandings, or negotiations, whether written or oral, between the parties, and it can only be amended through a written document formally executed by all parties.

Agreed to for the Respondent by:

Accepted for Julie Menin, Commissioner of  
Consumer Affairs for the City of New York, by:

Van Emberger  
Print Name

  
Print Name

President

Staff Attorney

T  
S  




9-28-15  
Date

10/5/15  
Date

Agreement Dated: 10/5/15

**Businesses licensed by the Department of Consumer Affairs (DCA) must comply with all relevant local, state and federal laws. Copies of New York City licensing and consumer protection laws are available in person at DCA's Licensing Center, located at 42 Broadway, 5th Floor, New York, NY, by calling 311, New York City's 24 hour Citizen Service Hotline, or by going online at [www.nyc.gov/consumers](http://www.nyc.gov/consumers).**